GPN-J.332-ARCHB-8.94-1310500-ALA4 Spl-H.C.A.S.C.D.79e

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO. 1368 OF 1998

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.)

Court's or Judge's orders

Mr. A.R. Sheikh for Petitioner.

Mr. O.A. Dubey with Mr. Y.R. Mishra for Respondent No. 1.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 15, 2005
P.C.

. For the view to be taken, it is not necessary to deal with the merits of the matter. The grievance the Petitioner who is L.R. of the noticee under the provisions of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFEMA) is and as averred in Para 9 of the Petition. The hearing was fixed on 16.4.1996. The notice was received on 15.4.1996. The impugned order it is contended was passed on 18.4.1996. It is thus clear that no opportunity was given to the petitioner. This averment as set out in Paragraph 9 has not been denied by the Respondents by filing any reply. Though they had been appearing before this court at least from

18.3.1998. We find that the appellate Authority did not consider the said contention though raised. The learned counsel for the petitioner produced the appeal memo where we find that the said objection was raised. Considering that, we find that no proper opportunity was given to the petitioner before the order dated 18.4.1996 was passed and consequential appellate order dated 14.1.1998 will have also to be set aside.

. In the light of that the following order :

. Rule made absolute in terms of Prayer Clause (a). The matter is remanded back to Respondent No. 2 and Respondent No. 2 after issuing fresh notice to petitioner to dispose of the same according to law. No order as to costs.

. Parties to act on the copy of this order duly authenticated by Associate of this court.

(F.I.REBELLO,J.)

(S.P.KUKDAY,J.)